IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

===

C.R. No. 2420 of 2006

Date of decision: 1.9.2006

Manjit Kaur Ranu and another

--- Petitioners

Versus

Kulwant Kaur and others

--- Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

PRESENT: Mr. Vijay Lath and Mr. Naveen Sharma, Advocates for the petitioners.

Mr. Sarju Puri, Advocate for respondent No.1.

JUDGMENT

In this revision petition the challenge is to the order dated 22.11.2005 whereby oral objections raised by Hardev Singh and the objections filed by Kulbir Singh judgment debtors in execution proceedings have been dismissed.

Briefly stated the facts are that Kulwant Kaur, respondent No.1 filed a suit for recovery of Rs. two lacs on account of damages for the accidental death of her husband Satnam Singh that took place on 19.7.1984. Satnam Singh was employed as Driver by Joginder Singh. The suit was decreed by Subordinate Judge Ist Class, Nawanshahar on 17.3.1990 for the recovery of Rs. 1,92,000/- with costs against Jai Narain and Joginder Singh only. Kulwant Kaur decree-holder filed execution application for execution of the said decree in which judgment debtor Jai Narain and the legal representatives of another judgment debtor Joginder Singh took an objection that they had already paid a sum of Rs. 1,50,000/- to the decree holder and therefore, the execution petition may be dismissed as satisfied. It was further alleged that a sum of Rs. 20,000/- was also received by Kulwant Kaur vide receipt dated 13.11.1990 and therefore a total sum of Rs. 1,70,000/- was paid which was agreed to be paid between the parties on the basis of a compromise arrived at. The facts set out in the objections were denied by the decree holder and this controversy led to framing of the following issues:

1- Whether the applicant Hardev Singh paid Rs. 1,50,000/- to the decree holder on 28.1.1991 against receipt? OPJD
2- Whether the objection petition is not maintainable? OPJD
3- Relief.

The executing court recorded a finding that payment of Rs. 1,70,000/- was not proved on record. Accordingly the aforesaid objections were dismissed vide order dated 22.11.2005.

Learned counsel for the petitioner submitted that the dispute between the parties has been settled amicably. One Joga Singh came present in Court and made a statement that he was the power of attorney of the petitioners and had been duly authorised by them to compromise the present dispute with the decree holder. He stated that he had entered into compromise with Kulwant Kaur decree holder and has today handed over to her a demand draft of Rs. 1,60,000/- in her favour in full and final settlement of the decretal amount under the decree dated 17.3.1990. Decree holder Kulwant Kaur also came present personally in the Court and made a statement that she had heard the statement of Joga Singh attorney of the petitioners made in

Court today. She further stated that the matter has been compromised and she has received a demand draft in the sum of Rs. 1,60,000/- in full and final settlement of decree dated 17.3.1990 in regard to which execution application is still pending before the executing court at Nawanshahar. She further stated that the compromise has been arrived at on her own volition and there is no pressure or coercion whatsoever on her from any quarter. She also stated that she will withdraw the execution application pending in the court at Nawanshahar as fully satisfied, on the next date of hearing and shall not file any other execution application in future against the judgment debtors in regard to the decree dated 17.3.1990 passed in civil suit No. 306 of 1987, titled as “Smt. Kulwant Kaur Vs. Jai Narain and another.”

In the wake of the above circumstances, counsel for the petitioners prays that this revision may be dismissed as withdrawn. The other side has no objection.

The revision petition is consequently dismissed as withdrawn.

(AJAY KUMAR MITTAL)
JUDGE

September 1, 2006
MALIK